

REMARKS

This responds to the final Office Action dated 30 March 2009. Claims 8, 21, and 28 have been amended. Support for these amendments can be found variously throughout the specification, including, for example, original claims 1-43. No new matter has been added by way of these amendments. Accordingly, claims 1-8, 10-18, 20-28, 30-38, and 40-43 are presently pending in the application, each of which Applicants believe is in condition for allowance.

For purposes of simplicity and clarity, Applicants' remarks are primarily focused on the rejections applied to independent claims 1, 11, 21, 31, and 41-43, with the understanding that the dependent claims are patentable for at least the same reasons that the independent claims are patentable. Applicants expressly reserve the right to argue the patentability of the dependent claims separately in any future proceedings.

Entry of this amendment is proper under 37 C.F.R. § 1.116 since the amendment: (a) places the application in condition for allowance (for the reasons discussed herein); (b) does not raise any new issues requiring further search and/or consideration; (c) satisfies a requirement of form asserted in the previous Office Action; and/or (d) places the application in better form for appeal, should an appeal be necessary. Applicants respectfully requests entry of this amendment and reconsideration in light of the above amendments and the following remarks.

Claim Objections

In the Action, the Examiner objected to claims 5, 15, and 35 for having been amended to recite "comprising at least one of," as opposed to "consisting of."

Applicants confirm that these claims should be interpreted in accordance with the standard interpretation of “comprising” – i.e., including one or more. As such, Applicants respectfully request withdrawal of these objections.

Claim Rejections – 35 U.S.C. § 103

In the Action, the Examiner rejected claims 1-8, 10-18, 20-28, 30-38, and 40-43 under 35 U.S.C. § 103(a) for allegedly being unpatentable over U.S. Patent No. 6,615,365 to Jenevein et al. (“Jenevein”) in view of GB Patent No. GB2376093 to Guy Leech (“Leech”). Applicants respectfully traverse these rejections for at least the reasons set forth below.

Independent claims 1, 11, 41, and 42 each recite, *inter alia*, “protecting [a] locally-stored image file from accidental user deletion or modification.” Similarly, independent claims 21 and 31 each recite, *inter alia*, “a protection component programmed to protect [a] locally-stored image file from accidental user deletion or modification,” while independent claim 43 recites, *inter alia*, “program code to protect [a] locally-stored image file from accidental user deletion or modification.”

Jenevein, in contrast, clearly fails to disclose, teach, or suggest protecting a locally-stored image file from accidental user deletion or modification. For example, while Jenevein states that “portions of the system data” (such as system data 102, 402, and 502 in FIGS. 3-5) may be stored “in a known, fixed location within the imaged partition 300” that may be “marked as system, hidden, and read-only so it is not easily accessible to the end-user and is not easily deleted or overwritten” (col. 15, lines 3-10), Jenevein clearly fails to disclose, teach, or suggest protecting an “in-partition image”

(such as images 302, 420, 422, 424, 532, and 534 in FIGS. 3-5) in this manner. As illustrated in FIGS. 3-5, system data 102, 402, and 502 clearly represent separate and distinct data from images 302, 420, 422, 424, 532, and 534.

Indeed, Jenevein states on a number of occasions that its “in-partition” images may be accidentally deleted or overwritten by users, which clearly demonstrates that such images are not protected “from accidental user deletion or modification,” as required by the claims of the present application. For example, according to Jenevein, “[i]f an image cannot be found or recovered, because the media is irreparably damaged, because the user has deleted the image file(s) intentionally or inadvertently, or for other reasons, then an error is returned, the user is informed, and, in some implementations, the program exits.” Col. 14, line 65 to col. 15, line 2 (emphasis added); *see also* col. 14, lines 34-38 (“The image locator 620 is used to locate one or more images 420 for data recovery, image updating, image deletion, image defragmentation, and similar operations pertinent to in-partition images.”) (emphasis added).

In fact, Jenevein explains that “in-partition images” are commonly overwritten during restoration operations. *See* col. 16, lines 44-55 (“If a single partition 300 which stores images 420 as files 45 contains both a factory image 424 and a user image 422, when the image restorer 624 restores the factory image 424 it will typically overwrite the user image 422. . . . An image that is stored in the partition may be overwritten during a restore to the partition.”) (emphasis added).

The above passages clearly demonstrate that the “in-partition images” disclosed in Jenevein are not protected “from accidental user deletion or modification.”

Moreover, Applicants have not been able to identify within Leech, nor has the Examiner alleged that Leech contains, any teaching that remedies this deficiency.

Accordingly, because Jenevein and Leech, either alone or in combination, fail to disclose, teach, or suggest each and every limitation of independent claims 1, 11, 21, 31, and 41-43, a *prima facie* case of obviousness has not been established. *See, e.g., In re Royka*, 490 F.2d 981, 985 (CCPA 1974) (holding that to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art) (emphasis added); *accord.* MPEP § 2143.03 (“To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all the claim limitations.”) (emphasis added).

In addition, because claims 2-8, 10, 12-18, 20, 22-28, 30, 32-38, and 40 depend from independent claims 1, 11, 21, or 31, Applicants submit that these claims are allowable for at least the same reasons given above with respect to independent claims 1, 11, 21, and 31. Applicants also submit that claims 2-8, 10, 12-18, 20, 22-28, 30, 32-38, and 40 are further distinguished over the cited prior art by the additional elements recited therein, and particularly with respect to each claimed combination. Applicants therefore respectfully request withdrawal of these rejections and allowance of the claims.

Conclusion

For at least the foregoing reasons, Applicants believe that each of the presently pending claims in this application is in immediate condition for allowance. Accordingly, Applicants respectfully request a favorable action on the merits. If the Examiner has any further comments or suggestions, Applicants invite the Examiner to telephone the undersigned attorney to expedite the handling of this matter.

Applicants expressly disclaim all arguments, representations, and/or amendments presented or contained in any other patent or patent application, including any patents or patent applications claimed for priority purposes by the present application or any patents or patent applications that claim priority to this patent application. Moreover, all arguments, representations, and/or amendments presented or contained in the present patent application are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application.

Respectfully submitted,



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Jonathan R. Lee
Registration No. 56,561